Remarks/Arguments:

Claims 1 and 3-14 are pending in the above-identified application.

Claims 1 and 3 were rejected under 35 U.S.C. § 102(b) as being unpatentable in view of Dinwiddie et al., Kraml et al. and Kou et al. Applicant respectfully requests reconsideration of this rejection.

With regard to claim 1, neither Dinwiddie et al., Kraml et al., Kou et al., nor their combination disclose or suggest,

> ... recognizing, in the host device, the smart card as including the upgraded software by accessing a **cable television card information structure (CIS)** of the smart card and locating a tuple in **the cable television CIS** which identifies the smart card as upgraded software...(Emphasis added).

Basis for this amendment may be found, for example, in paragraph [0015].

The CIS structure in Applicant's exemplary embodiment uses a CIS structure according to the standard outlined in OpenCable® HOST-POD INTERFACE SPECIFICATION of Cable Television Laboratories Inc. A tuple is defined at page 10 of the OpenCable™ Specifications (copy enclosed) as "Data **stored within** a PC Card that can be used to determine the capabilities of the card." (Emphasis added).

Applicants greatfully acknowledge an interview granted by the Examiner on October 2, 2007. During the interview, it was agreed that the proposed amendment appears to overcome the rejection. In particular, it does not appear that the references discloses or suggest "...accessing **a cable television card information structure (CIS)** of the smart card and locating a tuple in **the cable television CIS** which identifies the smart card as upgraded software."

Dinwiddie et al. determines whether a card is a conventional smart card or a memory card containing the software upgrade. (Col. 3, lines 2-6). Dinwiddie et al. does not disclose or suggest "...accessing **a cable television card information structure (CIS)** of the smart card and locating a tuple in **the cable television CIS** which identifies the smart card as upgraded software." The determination Dinwiddie et al. is done automatically when the card is in the reset state by toggling the reset signal path via an external clock signal. In the reset state, a

conventional smart card is in sleep mode and does not respond to an external signal. That is, the external signal applied to the pins of a conventional smart card is ignored. Dinwiddie et al. uses a special memory card configured to **monitor an external clock signal** while in sleep mode. (Col. 3, lines 27-35). When the pulse from the clock signal is sent (high/low) the card is determined to be the memory card containing the software upgrade because the memory card outputs an opposite state signal (low/high). (Col. 3, lines 27-47.) Thus, the signal output in Dinwiddie is responsive to excitation. It is not data stored within the **cable television card information structure (CIS)** of the smart card.

Kou et al. discloses a plurality of CIS tuples. (Col. 3, lines 46-48). The tuples in Kou et al., however, configure the smart card as either a memory device or an I/O device. (Col. 3, lines 48-50 and col. 4, lines 5-34). The default tuple configures the smart card as a memory device. After the smart card is configured as a memory device, FPGA instructions may then be loaded. (Col. 4, lines 5-7). That is, the tuple in Kou configures the smart card as a memory device and does not identify the smart card as upgraded software. Thus, Kou et al. also does not disclose or suggest "...accessing **a cable television card information structure (CIS)** of the smart card and locating a tuple in **the cable television CIS** which identifies the smart card as upgraded software."

Kraml et al. does not disclose using a smart card of any kind. Thus, Kraml et al. does not disclose or suggest "...accessing **a cable television card information structure (CIS)** of the smart card and locating a tuple in **the cable television CIS** which identifies the smart card as upgraded software."

Because neither Dinwiddie et al., Kraml et al., Kou et al., nor their combination disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al., Kraml et al., Kou et al. Claim 3 depends from claim 1. Accordingly, claim 3 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al., Kraml et al., Kou et al.

Claims 4-8 were rejected under 35 U.S.C. § 102(b) as being unpatentable in view of Dinwiddie et al., Kraml et al., Kou et al., Metz et al. and Kidder et al. Dinwiddie et al., Kraml et al. and Kou et al., are described above. Metz et al. and Kidder et al. are described in the previous response. Metz et al. and Kidder et al. also do not disclose or suggest "...accessing **a cable television card information structure (CIS)** of the smart card and locating a tuple in

the cable television CIS which identifies the smart card as upgraded software," as recited in claim 1.

Because neither Dinwiddie et al., Kraml et al., Kou et al., Metz et al. and Kidder et al., nor their combination disclose or suggest the features of claim 1, claim 1 is not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al., Kou et al., Metz et al. and Kidder et al. Claim 4 depends from claim 1. Accordingly, claim 4 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al., Kou et al., Metz et al. and Kidder et al.

Claim 5, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claim 5 is also not subject to rejection for the same reasons as those set forth above with regard to claim 1. Claims 6-8 depend from claim 5. Accordingly, claims 6-8 are also not subject to rejection for at least the same reasons as claim 5.

Claims 9-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Metz et al., Dinwiddie et al. and Kraml et al. and Kou et al. As described above, these references do not disclose or suggest the features of claim 1. Claim 9, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claim 9 is also not subject to rejection for the same reasons as those set forth above with regard to claim 1. Claims 10-12 depend from claim 5. Accordingly, claims 10-12 are also not subject to rejection for at least the same reasons as claim 9.

Claim 13, while not identical to claim 1, includes features similar to those set forth above with regard to claim 1. Thus, claim 13 is also not subject to rejection for the same reasons as those set forth above with regard to claim 1.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Metz et al., Dinwiddie et al. and Kraml et al., Kou et al. and Kidder et al. As described above, Metz et al., Dinwiddie et al. and Kraml et al., Kou et al. do not disclose or suggest the features of claim 13. Kidder et al. also does not disclose the features of claim 13. Claim 14 depends from claim 13. Accordingly, claim 14 is also not subject to rejection under 35 U.S.C. § 103(a) in view of Dinwiddie et al. and Kraml et al., Metz et al., Kou et al. and Kidder et al.

New claim 15 has been added. Basis for claim 15 may be found, for example, in paragraph [0045] and Fig. 3. No new matter has been added.

In view of the foregoing amendments and remarks, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1 and 3-14.

Respectfully submitted,

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KNN/pb
Enclosures: OpenCable™ Specifications (Pages 2 and 10)

Dated:

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OpenCable™ Specifications

CableCARD™ Interface 2.0 Specification

OC-SP-CCIF2.0-I07-060803

ISSUED

Term	Definition
S-Mode	A Single Stream Card (S-CARD), capable only of processing a single program on the interface, is said to be operating in Single Stream Mode (S-Mode).
Subtuple	Subset of a Tuple.
Tuple	Data stored within a PC Card that can be used to determine the capabilities of the card.
Uniform Resource Locator	A standard method of specifying the location of an object or file.
Upstream	Transmission from host to headend.
User Datagram Protocol	A protocol on top of IP that is used for end-to-end transmission of user messages. Unlike TCP, UDP is an unreliable protocol, which means that it does not contain any retransmission mechanisms.
Virtual Channel Table	An MPEG-2 table which contains a list of all the channels that are or will be on plus their attributes.